

# North Dakota



*The letter grades reflect Polaris' evaluation of existing laws designed to provide survivors of human trafficking with a realistic pathway to clear their criminal records. For more information on the criteria graded, please read [here](#) and examples of model legislation for each criteria can be found [here](#). If you have any questions or issues, please contact [policy@polarisproject.org](mailto:policy@polarisproject.org).*

### GOOD FOR SURVIVORS:

#### Legal Effect:

In North Dakota, the law returns the survivor to pre-record status. This means that for all practical purposes, once the process is complete, it is as if the offense never happened. For example, a statute receiving the highest ranking indicates that the conviction is vacated "on the merits" - meaning the charges never should have been brought in the first place. The highest-ranking statutes also include the automatic destruction of the records so they cannot be used against the survivor in the future.

#### Hearing Requirement:

Attending a hearing can be traumatizing for survivors as well as expensive. North Dakota has a conditional hearing requirement. This means the hearing is required at the court's discretion or under objection from certain state authorities such as prosecutors. Ideally, survivors could apply for relief, and based on the evidence provided, the court could decide to grant relief without having a hearing.

#### Time Limitations and Wait Times:

North Dakota has no time limit, restriction, or wait time for survivors to clear their criminal records.

### NEEDS IMPROVEMENT:

#### Offenses Covered:

The narrow scope of offenses currently covered by the criminal record relief statute in North Dakota is inadequate because relief only applies to low-level offenses like theft, burglary, and drug possession- yet the range of offenses for which survivors are arrested and prosecuted is much broader. Ideally, legislators in North Dakota would expand the statute to include all offenses so more survivors are eligible for relief.

#### Trafficking Nexus:

Survivors in North Dakota must prove the underlying offense and subsequent record was "proximately caused by" or "as a direct result of" being trafficked. Ideally, legislators in North Dakota would change the statute to utilize less restrictive statutory language like "as a result" of trafficking or "while they were a victim" of trafficking.

#### Burden of Proof:

North Dakota is silent on the issue of burden of proof. North Dakota should include a burden of proof in the statute, specifically "preponderance of the evidence," which is the most clear and most helpful to trafficking survivors.

#### Arrests and Adjudication Relief:

Relief in North Dakota only applies to convictions, adjudications, and other declarations of guilt. Ideally, the statute should cover the full range of interactions a survivor has with the criminal justice system, including any records of arrest, incident reports, and non-prosecuted cases.



Statute: [N.D. Cent. Code § 12.1-41-14.](#)